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NEW ALBERTSONS, INC., a Delaware corporation

**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

CAROLYN BLACKMON, an individual,

Plaintiff,

v.

Case No.: 2:10-CV-00712-KJD-PAL

NEW ALBERTSON'S INC., a Delaware Corporation, erroneously named as ALBERTSON'S LLC, a foreign limited liability company; ALBERTSON'S HOLDINGS, LLC a foreign limited liability company; DOES I through X, and ROE COMPANIES XI through XX, inclusive,

Defendants.

ORDER RE:

~~INTERIM STATUS REPORT~~  
~~(pursuant to LP 26.3) and JOINT~~  
REQUEST TO EXTEND  
DISCOVERY DEADLINES

Pursuant to this Court's Minute Order dated January 11, 2011 (Doc 20 ), Plaintiff, Carolyn Blackmon, by and through her attorney of record, and Defendant NEW

ALBERTSONS INC., by and through its counsel of record, submit this Joint Status Report.

**I. Local Rule 6-1**

Under LR 6-1(b) every stipulation to extend time must inform the court of any previous extensions granted and state the reason for the extension requested.

**A. The Requirement of Local Rule 6-1 Are Satisfied**

This is the third request for extension filed by the parties.

**II. Local Rule 26-4**

Under LR 26-4, an application to extend any date set by the discovery plan must be received no later than 20 days before the discovery cut-off date or any extension thereof. Further, a request to extend any date set by a discovery plan must be supported by a showing of good cause.

**A. The Time Requirements of Local rule 26-4 Are Satisfied**

The current discovery cut-off date is February 14, 2011. This stipulation is being filed on February 11, 2011. Therefore, the twenty (20) day requirement for requesting an extension under LR 26-4 has not been satisfied.

**B. There is Good Cause for the Extension**

Plaintiff filed her original Complaint on March 31, 2010. Plaintiff filed her First Amended Complaint on April 26, 2010, prior to serving Defendant with the original Complaint. Accordingly, Plaintiff was not required to file any motions requesting permission to amend her original Complaint.

On May 17, 2010, Defendant, New Albertsons, Inc. filed and served its Notice of Removal pursuant to 28 U.S.C. § 1441. Accordingly, Defendant filed the Notice of Removal within 30 days of service of the Amended Complaint. Also, on May 17, 2010, Defendant,

1 New Albertsons, Inc. filed its Notice of Removal of Action to U.S. District Court with the  
 2 Eighth Judicial District Court in Clark County, Nevada.

3 The parties participated in a Rule 26(f) conference on July 6, 2010. The Parties  
 4 exchanged their initial disclosures on or about June 30, 2010. On June 17, 2010, the parties  
 5 submitted their proposed Stipulated Discovery Plan and Scheduling Order.

6 This case concerns a trip and fall in an Albertson's Store on September 19, 2008.  
 7 Plaintiff was arguably disabled prior to the time of incident. Plaintiff had previously sought  
 8 medical treatment for a 2004 Motor Vehicle Accident, and Plaintiff had three (3) subsequent  
 9 falls with some of the medical providers still undetermined. Defendant has sought out in  
 10 excess of twenty (20) subpoenas to potential providers in attempt to verify Plaintiff's medical  
 11 specials. Plaintiff has a complex medical history with cervical, lumbar, thoracic, shoulders,  
 12 arms, legs, and hips with in excess of twenty-five (25) providers (orthopedic, neurology, pain  
 13 management, internal medicine, radiology, etc.).  
 14  
 15

16 **C. In Accordance with the Requirements of LR 26-4, the Parties Set**  
 17 **Forth the Following with Regards to their Request to Extend the**  
 18 **Discovery Deadlines**

19 **Proposed Schedule:**

- 20 1. Close of Discovery: April 25, 2011 (only for items set forth in this Third  
Request)
- 21 2. Final Date to Amend Pleadings: N/A (past)
- 22 3. Final Date for Expert Disclosure: N/A (past)
- 23 4. Final Date for Rebuttal Expert Disclosure: N/A (past)
- 24 5. First Interim Status Report Due: July 6, 2010 (past)
- 25 6. Second Interim Status Report Due: September 13, 2010 (past)
- 26 7. Final Date to File Dispositive Motions: May 25, 2011

8. Pre-Trial Order Deadline: June 25, 2011

9. Settlement Conference: N/A.

10. Calendar Call: N/A

11. Trial: N/A

**Schedule Currently in Effect:**

1. Close of Discovery: February 14, 2011

2. Final Date to Amend Pleadings: N/A (past)

3. Final Date for Expert Disclosure: December 13, 2010 (past)

4. Final Date for Rebuttal Expert Disclosure: January 13, 2011(past)

5. First Interim Status Report Due: July 6, 2010 (past)

6. Second Interim Status Report Due: September 13, 2010 (past)

7. Third Interim Status Report Due: February 11, 2011

8. Final Date to File Dispositive Motions: March 14, 2011 (past)

9. Pre-Trial Order Deadline: April 14, 2011 (past)

10. Settlement Conference: N/A.

11. Calendar Call: N/A.

12. Trial: N/A.

**Discovery Completed:**

The parties have exchanged disclosures required by Fed. R. Civ. P. 26(a) (1) and multiple supplements have been served. The parties have exchanged written discovery and responses. Some subpoenas have been issued and some of the records received. Additional records were sought from the interrogatory responses in Plaintiff's Interrogatory responses.

1 The issuance of the subpoenas was delayed because the HIPPA compliant medical  
2 authorization needed to be executed was not received until recently.

3 **REMAINING DISCOVERY DISPUTES**

4 1. Plaintiff's Discovery Disputes:

- 5 a. At this time, Plaintiff has only one remaining discovery dispute which is  
6 should likely be resolved based upon discussion between the parties. That  
7 dispute is the production of the maintenance log for the metal grate that has  
8 allegedly caused the fall of the Plaintiff. Based on discussions with  
9 counsel, the maintenance log will be produced if available. The Parties  
10 have agreed to allow for discovery to remain open for an additional seventy  
11 (70) days solely to allow for receipt of the maintenance log, and any  
12 additional discovery stemming from those records, including but not  
13 limited to deposition of employees.  
14  
15 b. All other discovery issues have been resolved at this time.  
16  
17 c. Plaintiff feels that the hearing can be vacated at this time based upon  
18 representations by Defendant shall be producing the maintenance log  
19 shortly.  
20

21 2. Defendant's Discovery Disputes:

- 22 a. Due to Plaintiff's unavailability, Defendant recently received Plaintiff's  
23 requested updated release for Social Security and medical records. Based  
24 on this delay, the parties have agreed to allow for discovery to remain open  
25 for an additional seventy (70) days. The extension of this discovery  
26 timeline is solely to allow for receipt of requested medical records, and any  
27  
28

1 additional discovery stemming from those records, including but not  
2 limited to, depositions of medical providers, and supplemental medical  
3 expert reporting.

4 b. All other discovery issues have been resolved at this time.

5 c. Defendant is in agreement that the hearing can be vacated at this time  
6 based on the stipulation of the parties concerning the discovery extension  
7 for the purpose of obtaining additional medical records.  
8

9 Therefore, good cause existing, counsel jointly request that this Honorable Court allow  
10 them an additional seventy (70) days to complete discovery with the other matter outlined in  
11 the Court's Scheduling Order.

12 Dated this 11<sup>th</sup> day of February, 2011.

13 MORAN LAW FIRM, LLC

14 THE LAW OFFICES OF PATRICK  
DRISCOLL, LLC

15 */s/ Lew Brandon, Jr., Esq.*

16 */s/ Patrick Driscoll*

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Attorney for Plaintiff

21  
22 **IT IS SO ORDERED.**

23   
24 GEORGE FOLEY, JR.

25 United States Magistrate Judge

26 Dated: February 14, 2011